



September 13 Draft Land-Based Wind Energy Guidelines: *Summary of Major Changes*

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David Cottingham

U.S. Fish and Wildlife Service

Background

- 3/4/10: FAC submitted recommendations to DOI
- 2/8/11: FWS published draft Wind Energy Guidelines (WEG) for public comment
- 7/12/11: FWS releases 2nd Draft WEG in advance of 7/21-22 FAC meeting
- 8/23/11: FAC Subcommittees formed at the July meeting present recommendations to full FAC
- 9/13/11: FWS releases 3rd Draft WEG in advance of 9/21-22 FAC meeting

Changes from July 12 Draft WEG

- FWS developed the September 13 Draft WEG based on:
 - Public comment
 - FAC recommendations
 - Internal FWS review
 - DOI review

Changes from July 12 Draft WEG

- FWS addressed the following comments raised:
 - Role of FWS
 - Definition of “Significant”
 - Adaptive Management
 - Mitigation
 - Phase-In of Guidelines
 - Habitat Fragmentation
 - Avian and Bat Protection Plans
 - Scale of Wind Energy Projects

Role of FWS

Comments Received:

- FAC - “Communications Protocol”
- Public comment:
 - Avoid “quasi-regulatory” requirements (e.g., FWS verification of developer plans or decisions)
 - FWS should adopt mandatory measures

Role of FWS

Revision Made:

- FWS has developed Table 1
- Outlines suggested communication between developer and FWS in each Tier

Definition of “Significant”

Comments Received:

- FAC - retain CEQ definition; delete references to federal wildlife laws
- Public comment:
 - Support for use of “significant” as a modifier
 - References to federal wildlife laws should be retained
- FWS Regions - CEQ regulatory definition is unclear in the context of these guidelines

Definition of “Significant”

Revision Made:

- Definition has been rewritten to better describe what will be taken into consideration when determining whether an impact is “significant”

Adaptive Management (AM)

Comments Received:

- FAC – Reinsert language from FAC recommendations emphasizing that AM would not be applied to most projects
- Public Comment:
 - AM should only be applied when impacts are greater than anticipated, and are significant
 - Greater clarity as to when AM would be applied is needed
 - FAC recommendations water down language

Adaptive Management (AM)

Revision Made:

- Used FAC recommended language, with modifications
- Tiered approach used in the Guidelines is adaptive management
- Further adaptive management, such as changes in operation, should be rare if proponents follow the Guidelines (i.e., select low-risk sites and use best management practices in project design, construction, and operation)

Mitigation

Comments Received:

- FAC – Insert introduction to Chapter; clarify that tools other than FWS 1981 Mitigation Policy are available
- Public Comment:
 - Clarify that mitigation is necessary only to avoid or minimize “significant adverse impacts”
 - FAC recommendation to adopt mitigation measures “to the greatest extent practicable for that project” weaken Guidelines

Mitigation

Revision Made:

- FWS did not accept FAC recommended language in full, but did clarify that:
 - Mitigation should address avoiding or minimizing significant adverse impacts, and when appropriate, compensating for unavoidable significant adverse impacts
 - Tools other than the FWS 1981 Mitigation Policy are available

Implementation of Guidelines

Comments Received:

- FAC – FWS should train staff and interested parties within 6 months of finalization of Guidelines
- Public Comment:
 - Phase-in period of at least one year needed to adjust to unforeseen challenges with implementation

Implementation of Guidelines

Revision Made:

- FWS will commit to beginning training within six months of finalization of Guidelines
- Decision stands that Guidelines will become final upon publication
- Term “phase-in” has been removed from text; training discussion moved under “Implementation”

Habitat Fragmentation

Comments Received:

- FAC – Reorganize Tiers 3, 4, and 5 so that Tier 4 addresses habitat fragmentation in addition to direct fatalities, rather than including habitat impacts in Tier 5. Add tables depicting decision process for conducting fatality and habitat studies.
- Public Comment:
 - Fatality monitoring should be kept in a Tier separated from habitat-related studies and research
 - Habitat studies appropriate for any project with a species of habitat fragmentation concern should be delineated from in-depth, research-type questions

Habitat Fragmentation

Revision Made:

- Accepted FAC recommendation to split Tier 4 into Tier 4a – fatality monitoring; and Tier 4b – habitat studies, with modifications
- Include consideration of rare plant communities (e.g., tall grass prairie) even when no species of habitat fragmentation concern are present

Avian and Bat Protection Plans

Comments Received:

- FAC recommended use of alternate term “Guidelines Performance Documentation” that could include, but not be limited to, ABPPs
- Public Comment:
 - Reference to “formal” documents such as ABPPs should be replaced with “wildlife and habitat due diligence records”
 - ABPPs are useful tools but their use should be at the discretion of the developer
 - FAC recommendation of “GPD” and its definition are problematic and weak the Guidelines

Avian and Bat Protection Plans

Revision Made:

- FWS retained use of the term ABPPs in the Guidelines because it is already in use and using a new term would create confusion
- Language added that clarifies that ABPPs are voluntary and that other materials may be provided to FWS as long as they contain relevant information

Next Steps

- FWS will accept public comment on the September 13 draft until September 23
- A final draft of the Land-Based Wind Energy Guidelines will be submitted to the Office of Management and Budget (OMB) by mid-October
- OMB will conduct an interagency review
- After addressing interagency comments, FWS will publish the final Guidelines in the *Federal Register* by the end of the calendar year.